

**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of)	
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)	CC Docket No. 95-155
Toll Free Service Access Codes)	
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To: The Commission

OPPOSITION TO APPLICATION FOR REVIEW

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March 8, 2007

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Toll Free Service Access Codes

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OPPOSITION TO APPLICATION FOR REVIEW

The U.S. Department of Health and Human Services (HHS), Substance Abuse and Mental Health Services Administration (SAMHSA), through its attorneys and pursuant to section 1.1115 of the Federal Communications Commission (FCC) rules, 47 C.F.R. §1.115 et seq., respectfully submits this filing in response to the Application for Review submitted by the Kristin Brooks Hope Center (KBHC) in the above-referenced docket. KBHC seeks a review of the Order issued by the Chief of the FCC Wireline Competition Bureau ("WCB") on January 22, 2007 granting HHS's request to reassign three toll free suicide prevention numbers to SAMHSA.¹

¹ In the Matter of Toll Free Service Access Codes, *Order*, DA 07-130 (January 22, 2007)

This filing is submitted to address certain points raised by KBHC, and to correct the factual errors contained in that Application insofar as they pertain to SAMHSA's actions or authority.

Emergency Circumstances Prompting SAMHSA's Petition for Reassignment

On several occasions prior to assuming operational and financial control of the toll free numbers on August 25, 2006, SAMHSA was advised that service to the numbers would be terminated because of non-payment of past due bills.² On one additional occasion, on November 28, 2006, before the FCC acted to direct the assignment of the numbers to SAMHSA, KBHC and SAMHSA were advised that service to the numbers would be terminated.³

The emergency described by SAMHSA establishing the basis of the FCC petition was not that the numbers were already disconnected, with callers in crisis seeking help without access to crisis centers, but rather the risk to the public caused by the imminent disconnection of the toll free suicide prevention lines controlled by KBHC. It is uncontested that the toll free hotline 1-800-SUICIDE routes more than 20,000 call per month, each call potentially representing a suicidal or distressed caller. The FCC was not required to wait until the numbers were actually silent and unable to accept calls for routing to crisis centers. To wait until the lines were inoperable could have resulted in injuries or even deaths, that could have been prevented by

² see *Declaration of Dr. Eric Broderick*, filed along with the Supplemental Petition of the U.S. Department of Health and Human Services in Support of Its Request for Reassignment of Toll Free Suicide Prevention Numbers on December 20, 2006

³ November 28, 2006 letter from Lee E. Hejmanowski, Esq. on behalf of Patriot Communications

timely action to ensure public access to the lines. Thus, SAMHSA's petition to the FCC was prompted by the imminent disconnection of the lines.

KBHC's Financial Status and Relevance to the Stability of the Toll Free Numbers

In the arguments presented, KBHC makes the erroneous assertion that SAMHSA "ceased funding" to KBHC,⁴ while it pays another entity that operates another suicide prevention hotline. SAMHSA is a public health agency established under Title V of the Public Health Service Act.⁵ Among other things, SAMHSA has broad authority to establish and implement a comprehensive program to improve the provision of treatment and related services to individuals with respect to mental illness, and to promote mental health and protect the legal rights of individuals with mental illnesses. These duties are carried out through the funding of grants and contracts to recipients who are selected through a process that complies with federal statutes (42 U.S.C. §290aa et seq.), regulations (see 45 C.F.R. part 74), and applicable HHS policies.

Accordingly, SAMHSA is authorized to award discretionary grants whereby grantees are selected through a peer review process. SAMHSA is also authorized to enter into contracts for services. Cooperative agreements are arrangements under which assistance is given by the federal government with the expectation of a degree of active intervention by the federal government in the conduct of the substantive program.⁶ For the above reasons, SAMHSA is not

⁴ KBHC *Application for Review* filed February 21, 2007, See page 4.

⁵ 42 U.S.C. §290aa et seq.

⁶ See the Federal Grant and Cooperative Agreement Act of 1977, Pub.L. No. 95-224, 92 Stat. 3, recodified, Pub.L. No. 97-258, 96 Stat. 1003 (September 13, 1982), as described in *Essentials of Grant Law Practice*, P. Dembling and M. Mason, 1991. See also 31 U.S.C. §6301 et seq.

in a position to pay for lines that it does not control, except through its regular grant-making process.

Put simply, SAMHSA did not “fund” KBHC, and did not “cease funding” to KBHC. KBHC is not now, and has never been the direct recipient of a grant, cooperative agreement, or contract from SAMHSA. KBHC entered into an arrangement with the American Association of Suicidology (AAS), an organization with which SAMHSA had entered into a Cooperative Agreement. The Cooperative Agreement between SAMHSA and AAS ended in March 2005.⁷

Furthermore, KBHC makes the erroneous assertion that “SAMHSA moved its funding to another toll-free number, (800) 273-TALK, operated by a private organization.”⁸ This is untrue. SAMHSA did not “move its funding.” Rather, in 2004, SAMHSA made a public notice of funding availability for Networking and Certifying Suicide Prevention Hotlines (funding opportunity number SM04-013, Catalog of Federal Domestic Assistance Number 93.243). Information regarding eligibility and qualifications was made available through public notice to applicants. This grant was awarded by SAMHSA to a successful applicant following a process of peer review.⁹

SAMHSA plans to issue another notice of public competition, offering grant funds to operate 1-800-273-TALK as well as the other toll free suicide prevention numbers. KBHC, like every other organization in the United States, is eligible to submit an application to operate the

⁷ *Declaration of Eric Broderick*

⁸ KBHC *Application for Review*, page 4.

⁹ *Declaration by Dr. Eric Broderick*

suicide prevention lines in accordance with the terms and conditions set forth in the published notice.¹⁰

Based on the FCC's actions reassigning the toll free numbers to SAMHSA on a temporary basis, SAMHSA will retain control over the lines, but will permit a grantee organization to operate the lines in support of public health goals established by SAMHSA. SAMHSA's direct operation of the toll free numbers was undertaken in response to the extraordinary circumstances presented in August 2006, when KBHC agreed to transfer the lines to SAMHSA due to an urgent need.

Similarly, KBHC mischaracterizes SAMHSA's actions in August of 2006 insofar as the Application for Review states that SAMHSA "agreed to pay the Patriot [Patriot Communications LLC] invoices on behalf of KBHC temporarily."¹¹ In fact, SAMHSA agreed to assume financial and operational control of the toll free numbers effective August 25, 2006, based on KBHC's decision to transfer the toll free number 1-800-SUICIDE and other toll free numbers to SAMHSA.

Consistent with this decision, KBHC admits in its Application for Review that it wished to transfer the numbers to SAMHSA in August of 2006. HHS's petition to the FCC seeking reassignment of the toll free numbers was made in order to effect the changes necessary to carry out that decision in a manner that would serve the public. Since August 25, 2006, SAMHSA has funded the operation of the three toll free suicide prevention numbers, 1-800-SUICIDE (1-800-

¹⁰ In addition, KBHC's Application for Review contains the erroneous statement that the subscriber of record for the toll free number 1-800-273-TALK is a Rockville, Maryland company.

¹¹ KBHC *Application for Review*, page 4.

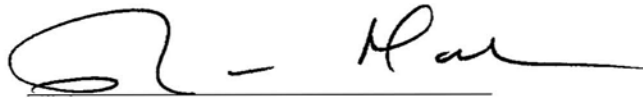
784-2433), 1-888-SUICIDE (1-888-784-2433), and 1-877-SUICIDA (1-877-784-2432) in a manner that ensures open access to these critical suicide prevention numbers in a manner to benefit the public interest.

Reassignment of the Toll Free Suicide Prevention Numbers and the Public Interest

It is SAMHSA's intention, and factual record since assuming operational and financial control of the lines in August 2006, to ensure that the lines are supported financially and technically, to meet the needs of callers in crisis. Moreover, as a public health agency, its mission is to establish and implement a comprehensive program to improve the provision of treatment and related services to individuals with mental illness and to improve prevention services and promote mental health nationwide. In carrying out this mission, SAMHSA will use the system of grant awards by which it makes funding available to the public, notified in open competition, and selected through a peer review process, to operate the toll free suicide prevention hotlines to serve the needs of the public.

Finally, if the toll free suicide prevention lines are disconnected, each hour that passes will lead to an increase in life-threatening risk to callers in crisis. SAMHSA's operation and support for the toll free suicide prevention numbers serving nearly 30,000 callers per month can ensure that these lines are maintained as a public resource.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rina Hakimian", written over a horizontal line.

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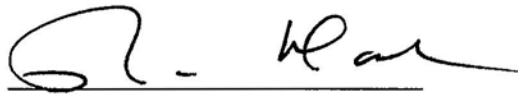
CERTIFICATE OF SERVICE

I certify that on March 8, 2007, this Opposition to Application for Review was faxed and mailed to the following:

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A handwritten signature in black ink, appearing to read "R. Hakimian", written over a horizontal line.

Rina Hakimian